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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(11)

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
		M.A(C) No. 903 of 2007
	Appellant Insurer	The Oriental Insurance Company, through its Divisional Manager, Divisional Office, Durg, Distt. Durg (CG)
		Versus
	RESPONDENTS Claimants No.1 to 7	1 Smt. Kamin Bai, widow of late Budhelal Patre, aged about 39 years
		2 Rajbhan Patre, aged about 19 years, s/o late Budhelal Patre
		3 Chandrabhan Patre, aged about 17 years & 6 months, s/o Late Budhelal Patre
		4. Suraj Bhan Patre, aged about 15 years, s/o late Budhe Lal Patre
		5. Shivbhan Patre, aged about 14 years, s/o late Budhelal Patre
		6 Ku. Shiv Kumar Patre, aged about 12 years, d/o Late Budhelal Patre
		7. Satbhan Patre, aged about 10 years, son of late Budhelal Patre Respondents no.3 to 7 being minors, are represented through their natural guardian – mother respondent no.1 Smt. Kamin Bai – All are residents of village Pitora, P.S. Nandani, Durg City, Tahsil and Distt. Durg
	Driver	8. Basant Srivastava, aged about 36 years, son of Shri Kishan Lal Srivastava, resident of Shivpuri, Jamul Ward No.17, near Verma Kirana Stores, Distt. Durg (C.G)
	Owner of Metadoor	9. Vimlesh Kumar son of not known, resident of Telibandha, Raipur City,

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मामला क्रमांक M.A.C 903 सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Tahsil and District. Raipur (C.G)

Misc. Appeal u/s 173 of the Motor Vehicles Act, 1988

Appearance:

Shri Asgar Ali, counsel for the appellant

D.B: **Hon'ble Shri Justice L.C. Bhadoo &**
Hon'ble Shri Justice Sunil Kumar Sinha, J, J

ORAL ORDER
(10.08.2007)

L.C.Bhadoo,

The appellant Insurance Company has preferred this appeal u/s 173 of the Motor Vehicles Act 1988 being aggrieved by the Award dated 19.9.2006 passed by the Addl. Motor Accidents Claim Tribunal (F.T.C) Durg, in Claim Case No. 415/2005 whereby the learned Tribunal has awarded a total compensation of Rs. 4,05,500/- in favour of the claimants and fastened liability on the Insurance company & the owner jointly and severally with interest @ 6% p.a. w.e.f. 21.1.2003. If the said amount is not paid within the prescribed period then the interest will be @ Rs.8.50%.

This appeal has been preferred on the ground that the dependency has been assessed on higher side and the learned tribunal ought to have taken the notional income as per the schedule-2 i.e., Rs.15000/- per annum.

The brief facts of the claim case are that on 22.6.2002 at about 3 p.m., Basant Shrivastava was driving the Metadoor bearing Regn.No.M.P. 26 D 0944 and it dashed against a

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Rajdoot Motorcycle bearing No.C.G. 07ZA/4025, as a result of which, Budhelal sustained fatal injuries and died. The claim was preferred by the widow and the children of the deceased. It is mentioned in the claim that at the time of accident, Budhelal was working as Supervisor in Lime Stone Mines, Pandariya Nandani, Durg, he was earning Rs.4200/- per month and the claimants were dependents on the income of late Budhelal.

The Tribunal in para 8 of the award, after considering the oral evidence adduced by the claimants, assessed the earning of Budhelal as Rs.100/- per day and thereby Rs.3000/- per month. Vide para 10, the annual income was assessed to be Rs.36,000/- and by applying the multiplier of 16, the total income was assessed as Rs.5,76,000/- ~~and~~ & after deducting 1/3rd from the said amount, which was being spent by late Budhelal on him, the dependency has been assessed to be Rs.3,84,000/-. Apart from that, Rs.2000/- for funeral expenses, Rs.2500/- for loss of estate, Rs.5000/- for loss of consortium & Rs.2000-2000/-, on account of loss of father's love and affection have also been awarded. Thus, in all, Rs. 4,05,500/- has been awarded.

As per the evidence, the deceased was working as Supervisor in the Lime Stone quarry, therefore, the income assessed by the Tribunal as Rs.100/- per day is not on higher side in any manner. In the present days, even a labourer can earn Rs.100/- per day whereas Budhelal was working as

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 4	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Supervisor, therefore, we are of the considered opinion that the income of Budhelal assessed ~~to be~~ Rs.100/- per day, appears to be just, fair and reasonable, which does not require any interference in this appeal, by this Court

The appeal being devoid of merit, is liable to be dismissed and the same is hereby dismissed on merits as well as on limitation also.

Sd/-
L.C. Bhadoo
Judge

Sd/-
Sunil Kumar Sinha
Judge

Rao